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By Edgar J. Lauer

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CONCILIATION

A CURE FOR THE LAW'S DELAY*

*Reprinted from "Annals of American Academy of Political and Social Science"

BY EDGAR J. LAUER

Justice of the Municipal Court of the City of New York

We hear and read much of the law's delay. We have heard and read much on the same subject for many years past. The delay in the administration of the law still remains. However, we need not look with discouragement upon this condition. We have always had defects and weaknesses in our judicial structure. This must always continue to be so. The ideal is always just ahead. We can and must correct the deficiencies which now are apparent to us. New defects and weaknesses will appear, undoubtedly, as time progresses. These in turn will need attention and will find a cure. Unquestionably the delay presently existing in the disposition of litigated cases is due to the congested condition of the calendars of our courts in the large centers of population. The purpose of the present article is not to account for the large volume of litigated cases on the calendars of our courts, but rather to propose a remedy.

Delay in the disposition of litigation is frequently equivalent to a denial of justice. This is particularly the case with the poor litigant and one with limited means. We must see that there is no denial of justice in our court procedure and especially not to the poor litigant. "The inevitable effect of the delays incident to the machinery now required in the settlement of controversies in judicial tribunals," said Chief Justice Taft, "is to oppress and put at a disadvantage the poor litigant and give advantage to his wealthy opponent." And the Chief Justice continued: "Courts and Legislatures could devote themselves to no higher purpose than the elimination from the present system of those of its provisions which tend to prolong the time in which judicial controversies are disposed of."

"Justice is the greatest interest of mankind on earth," said Daniel Webster. If the law's delay means a denial of justice, to what better or higher purpose can we devote ourselves than to find a remedy for this delay.

CONCILIATION SUPPLIES THE REMEDY.

I believe that *conciliation* supplies this remedy. Every litigated case that is conciliated, that is, where the parties reach an amicable adjustment of their differences, represents one less case which requires a trial and saves the court and jury the time which would be consumed by a trial.

Conciliation, therefore, should be encouraged and made an integral part of the administration of justice in our courts. It should have a place at least equal to the trial as a means of terminating the litigation.

By conciliation I mean any process by which the differences of parties are eliminated by agreement of the parties themselves and the parties brought into harmony. This harmony may be accomplished either by the efforts of the parties themselves or through the efforts of a third party. Conciliation is not arbitration and should not be confused with it. In arbitration the dispute of the parties is left for decision to some third party by agreement of the parties to the dispute, whereas in conciliation the parties themselves agree upon a solution or adjustment of the dispute. The decision in arbitration may be pleasing to one but most displeasing to the other of the disputants, or it may be displeasing to both. In conciliation the decision must be satisfactory to both disputants since it depends upon their voluntary action.

An action or proceeding in court is commenced to secure a right or redress a wrong which the party starting the litigation could not secure by amicable means. In other words, the party who appeals to the court for redress is seeking to force the party who is haled to court to do something contrary to his will or wish. It is then a fight and progresses as such to the conclusion of the litigation after a trial. The trial is the battle, the test of strength of the contending parties. This battle of the trial is fought out by generals—the lawyers for the contestants. People who fight are apt to get hurt, no matter how they fight. It is so with litigants. The fight is usually costly in time, money and effort, and besides is an economic waste, if I may use that expression. Unfortunately a fight once started is likely to proceed to a final determination unless some third party interposes his good offices as mediator or conciliator. Here then is the opportunity of the court. If with reasonable or proper effort the fight can be stopped, it should be. It is the duty of the court, as I see that duty, to stop the fight if possible before the fighters are seriously hurt. This can be

attempted by an effort to adjust the dispute or differences of the contending parties.

POINTS TOWARD ACCOMPLISHMENT.

The question naturally arises: "How do you propose to accomplish this effort at conciliation?" My answer is this: As a *first* effort—in every case in court where the parties appear by attorneys I should require the attorneys to confer and make the effort on their clients' behalf to adjust the dispute. I should not permit a trial to take place until after this effort at conciliation has been made. The effort at conciliation by the attorneys, the duly accredited representatives of the parties, should be a preliminary prerequisite to a trial.

A rule should be enacted in every court where trials occur requiring that before causes are noticed for trial by attorneys a genuine effort at conciliation be made and before a cause is placed on the calendar of the court for trial the rule should require the filing of an affidavit containing proof of the making of the effort and the failure of the effort to accomplish results. Of course if the attorney for one of the parties should refuse to meet in conference or decline to talk settlement of the dispute, the effort at conciliation necessarily must fail and the other party must be permitted to proceed with the litigation.

The very existence of a rule requiring an effort at conciliation will have a beneficial effect in bringing about settlement of disputes. Without a rule of this nature, the litigation once started is apt to continue as a litigation to the end. People follow the road of least resistance. An effort at conciliation is a diversion from the natural course of a litigation. It therefore requires something by way of suggestion to invite or encourage the effort. The force of the suggestion will, I doubt not, be considerable and the requirement of the rule making necessary the effort will add greatly to the force of the suggestion.

The litigation having started goes its natural way to a trial. This lack of effort to bring about a conciliation may result either because attorneys in a busy community are too much occupied with their business affairs to do other than prepare for trial when the case is about to be reached for trial, or because neither side desires to approach the other lest the effort at conciliation be regarded as a confession of weakness. The fact is that whatever the cause may be, under our present system parties and attorneys

frequently come to court to try their case without any effort having been made to bring the parties to an accord.

The proposed rule will effect a thorough change in this situation and I believe will work satisfactorily. This forced effort at conciliation through the medium of attorneys has the advantage of the effort through the mediation of the judge, in that no time of the judge is taken from his judicial labors and no time is taken away from trial work. It casts no very great additional burden on attorneys and it may prove the means of saving very considerable time, not only of the attorneys, but of their clients and witnesses as well.

I stated that this effort by the attorneys should be the *first* effort at conciliation. I do not intend that it should be the only effort. The adjustment of the dispute and the bringing of parties litigant into harmony is far too important to permit the effort to bring about this desired end to fail merely upon the effort of the attorneys, however well directed those efforts are.

As a *second* effort I should invoke the rule-making power of the court to require a judge in the trial court to tender his good offices to bring about an adjustment of differences in each case awaiting trial.

Who better than an impartial judge can offer suggestions for a fair adjustment of differences to contending litigants? Most assuredly litigants will listen more readily to a suggestion for settlement of a dispute, when the suggestion is made by a judge. His suggestions are disinterested and the source is one because of the position of the judge to command the respect of the parties. These suggestions are free from suspicion, which may be entertained when made by a party or his attorney, and consequently the more readily entertained.

PRACTICAL EXPERIMENTS.

My experience on the bench of the Municipal Court for upwards of twenty years leads me to say that I entertain no doubt that conciliation can be made a medium for the speedy disposition of litigation.

I have consistently made it a practice in cases to be tried before me with the aid of a jury to call counsel to the bench before me and interrogate them respecting the nature of the case and the prospect of adjusting differences. I have secured many settlements without the exercise of any pressure on the parties to

reach a settlement. Invariably I have received the thanks of attorneys and clients for my efforts, and this even though the attempt at conciliation failed to result in a settlement.

In February, 1925, I made an experiment in my court with the aid of my associates. I asked and obtained the co-operation of the New York Law Journal, a daily publication for lawyers, which goes into almost every law office in the city of New York. It was announced for two weeks before the experiment was undertaken that there would be an effort made to conciliate every case marked ready for trial on the day calendars; 163 cases out of 272 were settled and 109 cases were tried. In addition to these 212 cases were settled by the attorneys or parties without the aid of the judges. It would have required at least twice the number of judges to dispose of the cases ready and disposed of had it been necessary to try them all.

In this formal experiment the judge who made the effort to conciliate the parties did not try the case where conciliation failed. This was done in order to obviate any fear of bias on the part of parties or their attorneys consequent upon nonsuccess. I regard this feature as important in any plan of conciliation by a judge. It is important that a judge who tries a case be free from any bias or prejudice, and it is likewise important that the belief of litigants in this freedom should remain unimpaired.

There can be no doubt that where litigants are fair-minded and have fair-minded counsel and are desirous of adjusting their differences the settlement of the litigation will follow as a result of a conciliation effort.

EFFECTIVENESS OF CONCILIATION.

Conciliation as a means of ending disputes is no untried experiment. It has been put to the test in many fields and its success demonstrated. Courts of conciliation were established by the Government of Denmark in the West Indies in 1755, and afterwards in 1795 in Denmark. In Norway also conciliation tribunals were established by law in 1795. In both Norway and Denmark conciliation has been in successful operation. It exists likewise today in France as an essential prerequisite to the institution of an action in law in respect to small claims.

In his report as chairman of the Committee on Conciliation of the Conference of Bar Association Delegates made to the Conference in 1926, Mr. Reginald Heber Smith, who has given much

thought and consideration to the subject of conciliation, says: "For us in America the experience in Denmark and Norway seems to warrant two conclusions: First, conciliation procedure, properly employed, can be made an invaluable adjunct to the ordinary administration of justice, which is today essentially a litigious method of settling disputes. Second, as a country becomes industrialized and as urban population grows, the function of mediation is better intrusted to the regular judges in the regular courts rather than to special and independent commissions composed of laymen." See *New York Law Journal*, October 19, 1926.

In labor disputes, most difficult cases to adjust to the satisfaction of both parties, the conciliation of workers and employees has been demonstrated an effective means of preventing strikes in Canada. Under the Canadian act a conciliation board is appointed for each dispute. A report just published of the working of this act shows that out of 536 disputes, 490 were settled satisfactorily. Strikes were averted or ended in 91 per cent. of the cases. Report on "Postponing Strikes," just published by the Russell Sage Foundation.

A BROADER VISION OF CONCILIATION.

Looking at the subject with a broader vision: We should and must encourage concord rather than discord. In the business world of today good will and harmony should hold sway. If we have discord and ill will among our own people, how may we expect an era of universal peace among the nations of the world. We may not encourage discord at home and expect harmony abroad. If we are to have harmony we must strive for a better understanding among individual disputants.

At the recent session of the League of Nations held at Geneva on September 10 last, B. Briand, in an impassioned address advocating peace, said: "Away with rifles, machine guns and cannon! Make way for conciliation and arbitration! Make way for peace!" Let us apply this to our courts, and away with the battle of the trial as a means of terminating a litigation! Make way for conciliation! Let us have peace and good will!

"The law is not in its nature stationary, beyond other sciences. It must change with changing manners, the diffusion of wealth, new channels of industry, and more general intelligence. That which was natural in the Fifteenth Century is uncouth and strange in this. Things which were then convenient are now become intolerable. The knowledge of that day has been multiplied many times.

Arts then in their infancy have grown to perfection. In other branches of knowledge, advances are constantly made, the mind searches for new truths, and the search is encouraged. In respect to law, is the rule reversed? Are we then to tread forever in the ways of the past?"

I conclude this plea for conciliation as a part in the administration of justice with the concluding sentence of the editorial in the New York Law Journal on "The Recent Calendar Call and Conciliation" (New York Law Journal, February 16, 1927): "Certainly, conciliation as a conclusion of a litigation is quite as satisfactory as a trial with the ever-present possibilities of expensive and drawn-out appeals."

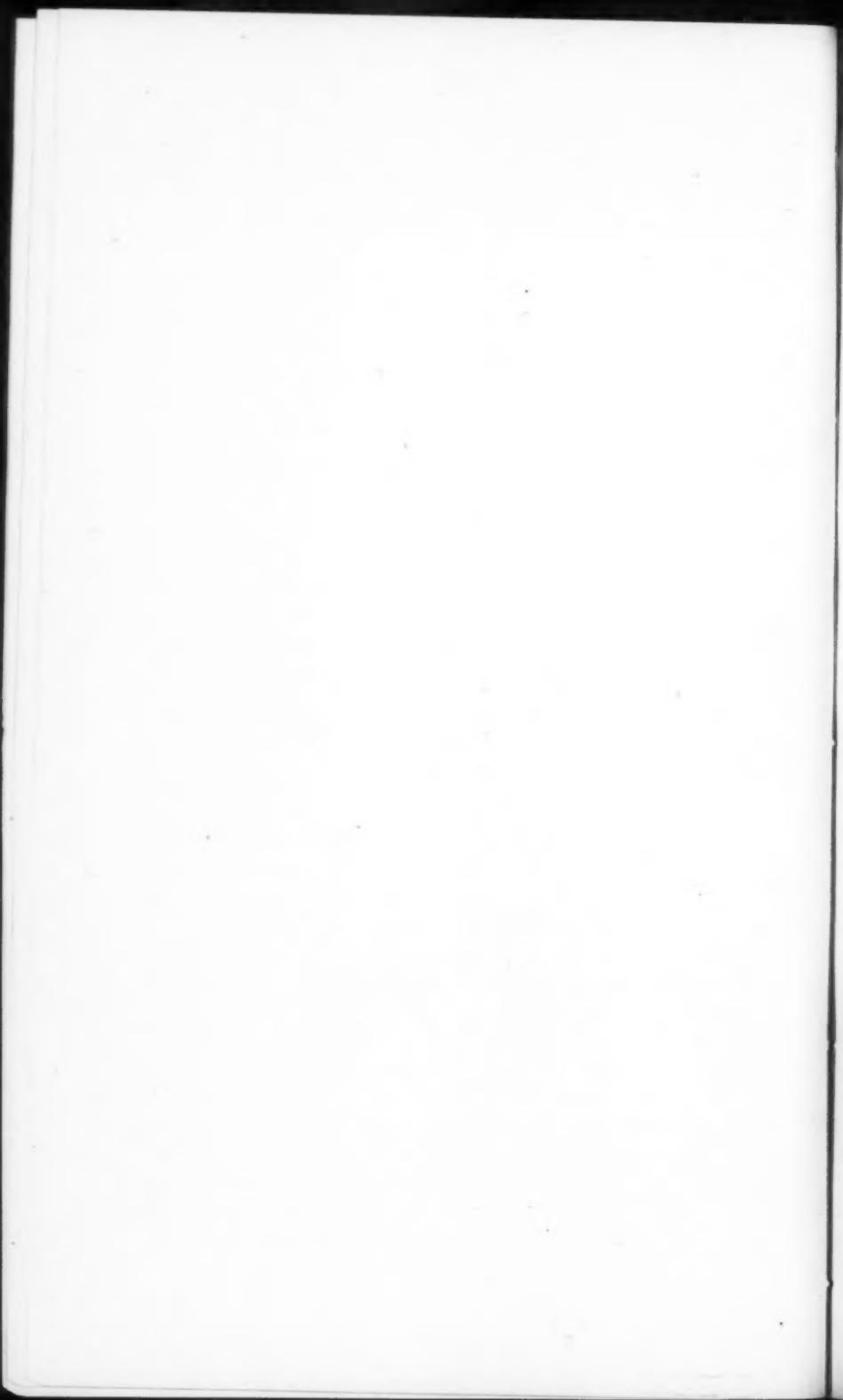
Why not make the experiment?

NOTE.

Mr. R. H. Smith who recommended the reprinting of Judge Lauer's article says:

"I think the subject of Conciliation deserves to be kept alive, because I believe that ultimately the civilized society will try to dispose of controversies between its citizens not exclusively through the method of litigation, as it does at present, but also through the method of Conciliation, which has been so eminently successful in Norway and Denmark."

F. W. G.



SUGGESTED PROCEDURE AS TO JURY TRIAL IN ITS RELATION TO THE STATUTORY RIGHT TO SECURITY.

As pointed out in the report, while an injured person has a constitutional right to a jury trial if he sues for damages at common law, he has no constitutional right to any particular form of security for those damages; therefore, the Legislature may regulate that security and the method of reaching it. Is it not essential to the carrying out of the purpose of the act of indemnifying persons, who have been honestly injured without fault, that the legislative power to regulate the method of reaching the insurance or other security provided by the act should be used to check what seems to be an abuse of the constitutional right to claim a jury trial?

The opinions of the New York Court of Appeals in *General Investment Company v. Interborough Rapid Transit Company*, 235 N. Y. 133, at pages 142-143, and of the Supreme Judicial Court of Massachusetts in *Farnum v. Lenox Motor Car Co.*, 229 Mass. 478, seem to show that right to a jury trial does not exist unless the court can be satisfied that there is a real issue of fact to be tried. Such is the case as to any action, regardless of the existence of any special security provided by statute for the payment of a judgment. In order to provide such security for honest injured persons to which they have no right except by statute, we see no reason why the Legislature should subject the public to an expense of about five hundred dollars a day for a jury trial and subject the entire Commonwealth to the clogging of the court dockets and the consequent delay and obstruction of all other administration of justice. The Commission refers to the common practice of claiming thousands of dollars in the writ in an action really involving a small amount which the claimant and his lawyer are ready to

settle for some small sum the jury claim being used as a sort of "club in a horse trade." We see no reason why a plaintiff and his lawyer, who are ready to subject the whole community to such expense and inconvenience for a small sum, of which the lawyer is likely to get a considerable share, should be provided with any security whatever by the Commonwealth. If they wish to claim a jury in such a case they should be left to take the chance of collecting any verdict which they may secure from the defendant, without recourse to the insurance company.

If, on the other hand, they are ready to accept the results of a hearing without jury by suing in the district court or by a jury-waived hearing in the Superior Court, they may be allowed to collect the judgment from an insurance company. In the case of a solvent defendant this would make no difference, but in a case in which the financial responsibility of the defendant was uncertain, which was the sort of case that the insurance law was intended to provide for, the right to reach the insurance would be important. The plan would not affect the obligation of the insurance company to protect its insured against loss.

In order to bring about this result, which seems to be fair and reasonable, the following act was suggested too late for consideration by the special Commission. It is printed here in order to call attention to the idea, for what it is worth, so that it may be considered in connection with the report. Any comments or suggestions as to this plan or the draft act will be welcomed.

It should be clearly understood that this suggestion is not in any sense an attack on the right to jury trial. On the contrary, it is an attempt to think out some practicable method of preventing abuse of the right and avoiding the approaching movement to lift personal injury cases not only out of the hands of juries but out of the hands of courts and lawyers.

F. W. G.

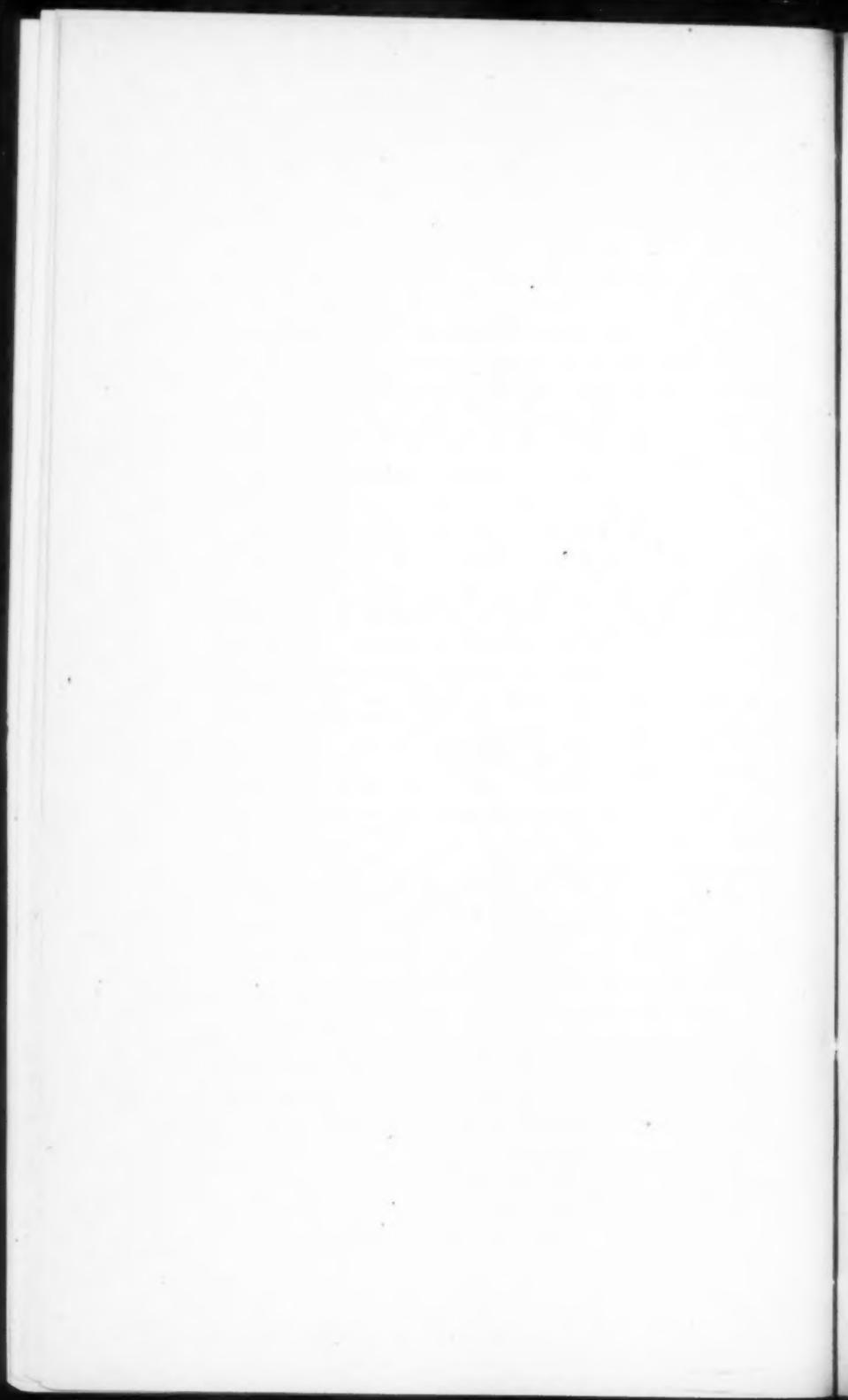
DRAFT OF AN ACT.

SECTION 1. No claim for personal injuries, caused by the operation, etc., of a motor vehicle shall be paid or settled by an insurance company unless in case of settlement a statement, signed by the injured person if he is able to do so or if not by some person on his behalf who shall explain the reason for the disability, is filed with the company or its representative in substantially the form to be provided in rules made by the commissioner (or the rating and control board) or unless, in case of suit, a similar statement is filed with the declaration.

SECTION 2. In any action brought in the superior court for personal injuries caused by the operation, etc., of a motor vehicle, after the declaration and statement of claim shall have been filed, if a jury trial is claimed, the plaintiff shall file a statement by the plaintiff or by his attorney, if any, of record, stating, in substance, that the affiant (1) is familiar with the plaintiff's claim, and (2) believes it well founded in law, and (3) that in his opinion the plaintiff ought to recover not less than five hundred dollars damages. If such statement is not filed, the court shall order said action placed upon the list for trial without jury. If such statement is filed, the defendant, his agent or attorney may, within the time allowed for appearance and answer, file a counter statement setting out specifically and clearly the substantive facts upon which the defendant believes that said action does not involve as much as five hundred dollars. If the court is satisfied, after summary hearing if requested, upon an inspection of the declaration and statements, and the report, if any, of an impartial physician appointed by the court, that said action does not involve at least five hundred dollars damages, the court shall suggest that the case be tried without a jury; provided, however, that if more than one action arising out of the same accident is pending in said court, in which one of the plaintiffs is found by the court entitled to a jury trial, the court may order that all other actions arising out of said accident shall be tried together with such jury action on the question of liability alone or of both liability and damage, in the discretion of the court. Unless the plaintiff within ten days after such suggestion of the court files a waiver of his claim for a jury trial, he shall have no right thereafter to proceed against the insurer of the defendant to satisfy any judgment obtained in such action against the defendant.

SECTION 3. This act shall take effect upon
teen hundred and thirty.

nine-



HOUSE No. 202

The Commonwealth of Massachusetts

INITIATIVE PETITION OF FRANK A. GOODWIN
AND OTHERS FOR THE ESTABLISHMENT
OF A STATE MOTOR VEHICLE INSURANCE
FUND TO PROVIDE COMPENSATION FOR
INJURIES AND DEATHS DUE TO MOTOR
VEHICLE ACCIDENTS.

[Insurance.]

OFFICE OF THE SECRETARY,
BOSTON, January 1, 1930.

Clerk of the House of Representatives, State House, Boston, Massachusetts.

Under the provisions of Article XLVIII of the Amendments to the Constitution, "The Initiative. II. Initiative Petitions. Section 4", I transmit herewith an initiative petition, accompanied by a bill entitled "An Act to Create a Motor Vehicle Insurance Fund for the Purpose of Providing Compensation for Injuries and Deaths due to Motor Vehicle Accidents." This petition, signed by ten qualified voters, and with the requisite certificate of the Attorney General attached, was filed with the Secretary of the Commonwealth November 1, 1929; and on December 2, 1929, 25,393 subsequent signatures of qualified voters had been filed.

Respectfully,

F. W. COOK,
Secretary of the Commonwealth.

INITIATIVE PETITION.

BOSTON, October 25, 1929.

Secretary of the Commonwealth.

The undersigned qualified voters respectfully petition under Article XLVIII of the Amendments to the Constitution governing the popular initiative, viz.: The Initiative II section 3, for "An Act to Create a Motor Vehicle Insurance Fund for the Purpose of Providing Compensation for Injuries and Deaths due to Motor Vehicle Accidents," hereto attached and made a part hereof.

FRANK A. GOODWIN,
17 Wade Street, Boston.

DAY BAKER,
1138 Boylston Street, Boston.

WILLIAM J. SULLIVAN,
15 Manthorne Road, Boston.

WILLIAM N. CARROLL,
35 Bullard Street, Boston.

EDWARD F. CASHMAN,
191 Babcock Street, Brookline.

CHARLES E. DURGIN,
1284 Beacon Street, Brookline.

WILLIAM J. GURLEY,
34 Garrison Road, Brookline.

CHESTER I. CAMPBELL,
210 Norfolk Street, Quincy.

ALLAN R. McDONALD,
104 Phillips Street, Quincy.

JOHN W. QUEEN,
32 Flynt Street, Quincy.

AN ACT TO CREATE A MOTOR VEHICLE INSURANCE FUND FOR THE PURPOSE OF PROVIDING COMPENSATION FOR INJURIES AND DEATHS DUE TO MOTOR VEHICLE ACCIDENTS.

Be it enacted by the People, and by their authority:

1 SECTION 1. Section four of chapter two hundred and 2 sixty of the General Laws, as amended by section one of 3 chapter three hundred and nineteen of the acts of nine- 4 teen hundred and twenty-one, and further amended by 5 section ten of chapter three hundred and forty-six of the 6 acts of nineteen hundred and twenty-five, is hereby 7 repealed and the following substituted in its place: — 8 *Section 4.* Actions for assault and battery, false 9 imprisonment, slander, actions against sheriffs, deputy 10 sheriffs, constables or assignees in insolvency, for the 11 taking or conversion of personal property, actions for 12 torts for injuries to the person against counties, cities 13 and towns, and actions of contract or tort for malprac- 14 tice, error or mistake against physicians, surgeons, den- 15 tists, hospitals and sanatoria shall be commenced only 16 within two years next after the cause of action accrues, 17 and actions for libel shall be commenced only within one 18 year next after the cause of action accrues.

1 SECTION 2. Chapter three hundred and forty-six of 2 the Acts of nineteen hundred and twenty-five and all 3 acts amendatory thereof and supplementary thereto are 4 hereby repealed.

1 SECTION 3. Chapter six of the General Laws is hereby 2 amended by adding at the end thereof the following 3 sections: — *Section 40.* The State Motor Vehicle Insur- 4 ance Fund, hereinafter in this act called the fund, is 5 hereby created a body corporate with the powers pro- 6 vided in this act and with all the general corporate powers 7 incident thereto. It shall be under the control and man- 8 agement of a board of commissioners to be known as the 9 board of commissioners of the State Motor Vehicle 10 Insurance Fund. *Section 41.* The board of commis-

11 sioners of the fund shall consist of a commissioner and
12 two associate commissioners, all of whom shall be ap-
13 pointed by the governor, with the advice and consent of
14 the council. The first appointment of the commissioner
15 and associate commissioners shall be for terms of two,
16 four and six years, said terms to be allotted to the com-
17 missioner and to the associate commissioners as the gov-
18 ernor may determine. Thereafter the governor shall
19 appoint the commissioner and associate commissioners
20 for the term of six years. The commissioner shall receive
21 an annual salary of seven thousand dollars, and the asso-
22 ciate commissioners shall each receive an annual salary
23 of six thousand five hundred dollars. Said board is
24 hereby vested with all the powers necessary to carry out
25 the provisions of law relative to the fund. The commis-
26 sioner may appoint and remove a secretary and such
27 deputies, clerks, physicians, attorneys and other assist-
28 ants as the management of the fund may require and fix
29 their compensation, terms of service and define their
30 duties.

31 Chapter ninety of the General Laws, as amended, is
32 hereby further amended by inserting after section one
33 the following new section:— *Section 1A.* No motor
34 vehicle or trailer except one owned by a person, firm or
35 corporation for the operation of which security is required
36 to be furnished under section forty-six of chapter one
37 hundred and fifty-nine, or one owned by any other
38 corporation subject to the supervision and control of the
39 department of public utilities or by a street railway
40 company under public control or by the commonwealth
41 or any political sub-division thereof, shall be registered
42 under sections two to five, inclusive, unless the applica-
43 tion therefor is accompanied by a contribution to the
44 fund as required in section thirty-three A, and the pay-
45 ment of said contribution shall constitute an acceptance
46 of the provisions of law relative to the fund.

47 Said chapter ninety is hereby further amended by
48 adding after section two the following new sections:—

49 *Section 2A.* A person who transfers the ownership of a 50 registered motor vehicle or trailer, owned by him, to 51 another motor vehicle or trailer, shall be entitled to the 52 same benefits from the fund without payment of another 53 contribution, as under the original registration, provided, 54 that if a larger contribution is required to be paid into 55 the fund for the second or subsequent vehicle, he shall 56 pay the difference between the contribution paid for the 57 vehicle previously registered and that required for the 58 vehicle to which the registration is transferred. *Sec- 59 tion 2B.* A person who, before the first day of July in 60 any year, surrenders his registration certificate and 61 plates, or transfers the ownership or loses possession of 62 any vehicle registered in his name and who does not 63 apply for the registration of another vehicle, but who, 64 on or before the first day of August in the same year, files 65 in the office of the registrar a written application for a 66 rebate accompanied by the certificate of registration and 67 number plates, shall be entitled to a rebate of one half 68 the contribution paid into the fund for such vehicle, pro- 69 vided that no such rebate shall be paid except upon a 70 certificate filed with the comptroller, setting forth the 71 facts and signed by the registrar or his authorized agent. 72 Said chapter ninety is hereby further amended by 73 striking out section twenty-six and inserting in the place 74 thereof, the following:— *Section 26.* The operator or 75 owner of every motor vehicle or trailer involved in an 76 accident in which any person is killed or injured shall 77 report within twenty-four hours to the police of the city 78 or town where the accident happened, if there is an organ- 79 ized police department therein. Where there is no organ- 80 ized department, the report shall be made to the registrar 81 within forty-eight hours. All reports shall be made on 82 blank forms furnished by the registrar and distributed 83 by police officials and shall contain answers to such ques- 84 tions as the registrar may deem necessary. The registrar 85 may suspend, without a hearing, the license or regis- 86 tration of any person who violates this section.

87 Said chapter ninety is hereby further amended by
88 inserting after section twenty-nine the following section:
89 — *Section 29A*. The registrar shall investigate every
90 accident where personal injury did in fact, or may, result
91 and the investigators shall file two reports, (1) with the
92 registrar relating such facts concerning the accident as
93 may aid in fixing responsibility and liability, (2) with the
94 board of commissioners of the fund referred to in this
95 chapter as the board, containing a duplicate of that
96 report filed with the registrar and in addition a detailed
97 account of all material facts relative to personal injuries,
98 claims of injuries, or deaths.

99 Such proportion of the expenses for said investigations,
100 including salaries and expenses of investigators, as may
101 be agreed upon by the registrar, the commissioner of the
102 fund and the chairman of the department of administra-
103 tion and finance, shall be charged to the State Motor
104 Vehicle Insurance Fund.

105 Said chapter ninety is hereby further amended by
106 inserting after section thirty-one A, the following new
107 section:— *Section 31B*. The board shall make rules and
108 regulations for the purpose of carrying out the provisions
109 of law relative to the fund and may alter, amend, rescind
110 or add to any rules previously made. The rules and
111 regulations made under this section or any changes
112 thereto, shall be subject to approval by the governor and
113 council.

114 Said chapter ninety is hereby further amended by
115 inserting after section thirty-three the following new
116 section:— *Section 33A*. The registrar or his authorized
117 agent shall collect contributions to the State Motor
118 Vehicle Insurance Fund as follows:—

119 For every passenger automobile registered before	
120 July 1	\$16 00
121 For every passenger automobile registered after	
122 July 1 and before October 1	10 00
123 For every passenger automobile registered after	
124 October 1	5 00

125	For every commercial motor vehicle, trailer, and	
126	semi-trailer, or repairman's set of plates reg-	
127	istered or issued before July 1	\$25 00
128	For every commercial motor vehicle, trailer, and	
129	semi-trailer, or repairman's set of plates, reg-	
130	istered or issued after July 1 and before Octo-	
131	ber 1	15 00
132	For every commercial motor vehicle, trailer, and	
133	semi-trailer, or repairman's set of plates, reg-	
134	istered or issued after October 1	10 00
135	For every motor vehicle used for carrying pas-	
136	sengers for hire registered before July 1	50 00
137	For every motor vehicle used for carrying pas-	
138	sengers for hire registered after July 1 and	
139	before October 1	30 00
140	For every motor vehicle used for carrying pas-	
141	sengers for hire registered after October 1	20 00
142	For every motor cycle registered before July 1	
143	For every motor cycle registered after July 1	
144	and before October 1	10 00
145	For every motor cycle registered after October 1	
146	For every electric or steam passenger automo-	
147	bile registered before July 1	12 00
148	For every electric or steam passenger automobile	
149	registered after July 1 and before October 1	6 00
150	For every electric or steam passenger automo-	
151	bile registered after October 1	3 00
152	For every commercial electric or steam motor	
153	vehicle registered before July 1	20 00
154	For every commercial electric or steam motor	
155	vehicle registered after July 1 and before	
156	October 1	10 00
157	For every commercial electric or steam motor	
158	vehicle registered after October 1	5 00
159	For every industrial motor truck, farm tractor,	
160	lawn mower or dock truck registered before	
161	July 1	5 00
162	For every industrial motor truck, farm tractor,	
163	lawn mower or dock truck registered after	
164	July 1 and before October 1	3 00

165 For every industrial motor truck, farm tractor, 166 lawn mower or dock truck registered after 167 October 1	\$2 00
168 For every set of number plates up to and includ- 169 ing ten sets issued to a dealer before July 1	15 00
170 For every set of number plates up to and includ- 171 ing ten sets issued to a dealer after July 1 and 172 before October 1	10 00
173 For every set of number plates up to and includ- 174 ing ten sets issued to a dealer after October 1	5 00
175 For every set of number plates issued to a dealer 176 in excess of ten, before July 1	10 00
177 For every set of number plates issued to a dealer 178 in excess of ten after July 1	5 00
179 For every motor vehicle registered by a person 180 who makes a business of letting out said car 181 to be driven by the person hiring it, if regis- 182 tered before July 1	100 00
183 For every motor vehicle registered by a person 184 who makes a business of letting out said car 185 to be driven by the person hiring it, if regis- 186 tered after July 1 and before October 1	50 00
187 For every motor vehicle registered by a person 188 who makes a business of letting out said car 189 to be driven by the person hiring it, if regis- 190 tered after October 1	25 00
191 For every motor vehicle registered by a non- 192 resident under the provisions of section three 193 or section four of chapter ninety of the Gen- 194 eral Laws	5 00
195 The board, from time to time, after due hearing and 196 investigation, may modify, alter, or revise the above 197 classifications or any part thereof, or increase or decrease 198 the contribution charges whenever it is deemed proper, 199 expedient or necessary to secure or maintain fair and 200 reasonable classifications and adequate, just or reason- 201 able charges, provided that no such order shall apply to 202 the classifications or contributions in connection with the 203 registration of motor vehicles or trailers during the year	

204 in which the order is made. Any change in the classifications or contributions shall be filed with the registrar on 205 or before September first of the year when made and 206 shall become effective with regard to registrations for the 207 succeeding year or until changed.

208 Said chapter ninety is hereby further amended by 209 inserting after section thirty-four the following new sec- 210 tions:—*Section 34A.* The contributions received by the 211 registrar, as provided in section thirty-three A, shall be 212 paid to the treasurer and receiver-general who shall be 213 custodian of the funds of the fund and said contribu- 214 tions shall be credited to the fund. The contributions 215 shall be used to meet the expenses necessary for admin- 216 istration including expenditures provided for in section 217 twenty-nine A. The balance then remaining shall be 218 used to carry out the provisions of law relative to said 219 fund. *Section 34B.* A person paying a contribution to 220 the fund as required by section thirty-three A, shall be 221 deemed to have entered into a contract of insurance with 222 the fund whereby the said fund agrees to indemnify the 223 registrant, or any person responsible for the operation of 224 the motor vehicle or trailer, described in the certificate of 225 registration, with his express or implied consent, against 226 loss by reason of the liability to pay damages to others for 227 bodily injuries, including death, at any time resulting 228 therefrom sustained during the term of the contract by 229 any person other than the employees of the registrant or 230 of any such other persons responsible as aforesaid who are 231 entitled to payments or benefits under the provisions of 232 chapter one hundred and fifty-two of the General Laws, 233 and arising out of the ownership, operation, maintenance, 234 control, or use, upon the ways of the commonwealth of 235 Massachusetts, of such motor vehicle or trailer, to the 236 amount or limit of five thousand dollars, on account of 237 injury to or death of any one person, and subject to such 238 limits as respects injury to or death of one person, of ten 239 thousand dollars, on account of any one accident result- 240 ing in injury to, or death of more than one person. The 241 contract of insurance shall terminate upon the expiration 242

243 of the certificate of registration or upon the revocation
244 or suspension of the certificate of registration, with refer-
245 ence to accidents occurring after said expiration, revoca-
246 tion, or suspension, but shall again be in full force and
247 effect upon the rescission of the revocation and reinstate-
248 ment of the certificate of registration, with reference to
249 accidents occurring after reinstatement. *Section 34C.*
250 The board shall defend, or may settle in the name and on
251 behalf of the assured, any claims, suits, or other legal
252 proceedings alleging injuries and demanding damages on
253 account thereof, although such claims, suits, legal pro-
254 ceedings, allegations and demands may appear to be
255 wholly groundless, and shall also pay all expenses for
256 investigations, negotiations for settlement or defense of
257 any claims for injuries and of suits or legal proceedings
258 arising therefrom; any expense incurred by the assured
259 for such immediate medical or surgical relief as shall be
260 imperative at the time any such injuries are sustained;
261 all costs taxed against the assured in any such proceed-
262 ings, and all interest accruing before or after entry of
263 judgment and up to the date of payment, tender or
264 deposit in the court by the board of the fund's share of
265 any judgment. *Section 34D.* The fund shall be subro-
266 gated in case of any payment under this chapter to the
267 extent of such payment, to all rights of recovery therefor
268 of the assured or any other person claiming hereunder,
269 against persons, corporations, associations or estates, and
270 the assured or any other person claiming hereunder shall
271 execute all papers required and shall co-operate with the
272 board to secure whatever rights the fund may have.
273 *Section 34E.* The board shall file annually with the
274 insurance commissioner a report showing assets and
275 liabilities computed on the same basis as assets and
276 liabilities of insurance companies so far as applicable,
277 and the fund may be examined at any time by the insur-
278 ance commissioner as provided in section four of chapter
279 one hundred and seventy-five for the examination of
280 domestic insurance companies. *Section 34F.* Whoever
281 in connection with any claim for damages, for death or

282 personal injuries against any person insured by the fund,
283 makes or presents, or acts or aids in making or presenting
284 to the fund, or to any of its commissioners, or agents, any
285 wilfully false statement in respect to any material fact or
286 thing pertaining to such a claim with intent to deceive or
287 defraud the fund, or any of its commissioners or agents,
288 shall be punished by a fine of not less than one hundred
289 nor more than one thousand dollars, or by imprisonment
290 for not less than one month, nor more than one year.
291 Whoever obtains any money from the fund by means of
292 any such statement shall be punished by imprisonment
293 for not less than one month nor more than two and one
294 half years. If it appears to the commissioners of the
295 fund or to any of them that any person has violated this
296 section, they or he shall forthwith report the facts in
297 writing to the attorney general, or to the proper district
298 attorney, who shall cause the offender to be prosecuted
299 therefor.

1 SECTION 4. There shall be no appropriations made by
2 the commonwealth for current or ordinary expenses of
3 the fund, and the board is hereby authorized to provide
4 by temporary loan a sum sufficient for organizing and
5 carrying out the provisions of law relative to the fund.

1 SECTION 5. Sections one and two of this act shall take
2 effect on the thirty-first day of December in the year
3 nineteen hundred and thirty, and the remaining sections
4 shall take effect upon the passage of this act; provided,
5 however, that no contributions as required in section
6 thirty-three A shall be collected in connection with the
7 registration of any motor vehicle or trailer which shall
8 become effective prior to the first day of January in the
9 year nineteen hundred and thirty-one.

CERTIFICATE OF THE ATTORNEY GENERAL TO ACCOMPANY INITIATIVE PETITION DATED OCTOBER 25, 1929, FOR AN ACT TO CREATE A MOTOR VEHICLE INSURANCE FUND FOR THE PURPOSE OF PROVIDING COMPENSATION FOR INJURIES AND DEATHS DUE TO MOTOR VEHICLE ACCIDENTS.

I, JOSEPH E. WARNER, Attorney General of the Commonwealth, hereby certify that the above-entitled measure to which this certificate is annexed is in proper form for submission to the people, and that it is not, either affirmatively or negatively, substantially the same as any measure which has been qualified for submission or submitted to the people within three years of the succeeding first Wednesday in December, and that it contains only subjects not excluded from the popular initiative and which are related or which are mutually dependent.

JOSEPH E. WARNER,
Attorney General.

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